

ST 99-25

Tax Type: Sales Tax

Issue: Bad Debt Write-Off

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

THE DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS)	
)	
v.)	Docket No. 97-ST-0000
)	IBT # 0000-0000
“CASCADE PRINTING, INC.”,)	Claim for Credit or Refund
)	
Taxpayer)	

RECOMMENDATION FOR DISPOSITION

Appearances: Charles Hickman, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; James P. Stiehl for “Cascade Printing, Inc.”

Synopsis:

“Cascade Printing, Inc.” (“taxpayer”) filed a Claim for Credit or Refund of various taxes paid for the time period of January 1992 to October 1994. The Department of Revenue (“Department”) issued a Notice of Tentative Denial of the Claim. The taxpayer timely protested the Notice of Tentative Denial. The taxpayer raised the following issues at the pre-trial conference: (1) whether the taxpayer made sales for resale that would entitle the taxpayer to a refund of the taxes paid; and (2) whether some of the sales were properly excluded as bad debt write-offs under the gross sales method of reporting. A hearing was held where the taxpayer presented various evidence. At the hearing, the taxpayer conceded that it did not have adequate documentation to refute the

first issue. (Tr. P. 7) Therefore the sole issue in this matter concerns the bad debt write-offs. After reviewing the record, it is recommended that this issue be resolved in favor of the taxpayer.

FINDINGS OF FACT:

1. The taxpayer presented invoices that were sent to one of its customers, "John Doe", for the period from September through December of 1994. The taxes on the invoices for the period up through October 31, 1994 total \$663.32. (Taxpayer Ex. #1)

2. "John Doe" did not pay the invoices. The taxpayer wrote-off the invoices as bad debt on its 1995 Federal tax returns. (Taxpayer Ex. #2; Tr. Pp. 12-13)

3. On October 2, 1997, the Department issued a Notice of Tentative Denial of Claim to the taxpayer for the time period from January 1992 to October 1994. The Notice denied the taxpayer's claim for the amount of \$10,493. A copy of the Notice was admitted into evidence under the certificate of the Director of the Department. (Dept. Ex. #1)

CONCLUSIONS OF LAW:

The Retailers' Occupation Tax Act ("ROTA") (35 ILCS 120/1 *et seq.*) imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2. Section 6b of the ROTA provides that the Department's Notice of Tentative Denial of Claim constitutes *prima facie* proof of the correctness of the Department's determination, as shown therein. 35 ILCS 105/12; 120/6b.

Once the Department has established its *prima facie* case by submitting a certified copy of the Notice of Tentative Denial of Claim into evidence, the burden shifts to the taxpayer to overcome this presumption of validity. Clark Oil & Refining Corp. v.

Johnson, 154 Ill.App.3d 773, 783 (1st Dist. 1987). To prove its case, a taxpayer must present more than its testimony denying the Department's assessment. Sprague v. Johnson, 195 Ill.App.3d 798, 804 (4th Dist. 1990). The taxpayer must present sufficient documentary evidence to support its claim. Id.

The taxpayer concedes that the only issue in this matter is whether the taxpayer is entitled to a credit in the amount of \$663.32 for bad debt write-offs. The taxpayer uses the gross sales method for reporting sales taxes. In the Department's general information letters, the Department states that it allows a retailer that files on the gross sales basis to take a bad debt deduction on its sales tax return for the month in which that bad debt was written off for Federal income tax purposes. See e.g. ST 96-0020 GIL. In support of its claim for the deduction, the taxpayer presented evidence that the invoices were not paid and that the bad debts were written-off on the 1995 Federal income tax returns. This evidence was sufficient to overcome the Department's *prima facie* case.

Recommendation:

For the foregoing reasons, it is recommended that the taxpayer receive a credit in the amount of \$663.32.

Linda Olivero
Administrative Law Judge

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